

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 798

Introduced by Senator Simitian

February 22, 2005

An act to ~~amend Section 1357.51 of~~ add Division 115 (commencing with Section 150000) to the Health and Safety Code, relating to ~~health care service plans~~ pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, Simitian. ~~Health care service plans: preexisting conditions~~ Prescription drugs: collection and distribution program.

The Pharmacy Law provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and authorizes a pharmacist to dispense a medication on prescription in a container that meets the requirements of state and federal law and is correctly labeled.

This bill would authorize a county to establish, by local ordinance, a repository and distribution program for purposes of distributing surplus unused medications to persons in need of financial assistance to ensure access to necessary pharmaceutical therapies. The bill would specify requirements of a program established by a county under these provisions, including, among others, for procedures that ensure the proper safety and management of any medications collected by and maintained under the authority of a licensed pharmacist. The bill would authorize any drug manufacturer legally authorized under federal law to manufacture or sell pharmaceutical drugs, licensed health facility, or pharmacy to donate medications pursuant to these provisions.

~~Existing law provides for regulation of health care service plans by the Department of Managed Health Care. Existing law provides that a~~

~~plan contract that covers 3 or more enrollees may not exclude coverage for any individual on the basis of a preexisting condition for a period greater than 6 months following the individual's effective date of coverage.~~

~~This bill would change that time period from 6 to 8 months.~~

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1357.51 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~SECTION 1. Division 115 (commencing with Section 150000)~~
4 ~~is added to the Health and Safety Code, to read:~~

5
6 *DIVISION 115. SURPLUS MEDICATION COLLECTION*
7 *AND DISTRIBUTION*
8

9 *150000. It is the intent of the Legislature in enacting this*
10 *division to authorize the establishment of a voluntary drug*
11 *repository and distribution program for the purpose of*
12 *distributing surplus medications to persons in need of financial*
13 *assistance to ensure access to necessary pharmaceutical*
14 *therapies.*

15 *150002. A health facility licensed under Chapter 2*
16 *(commencing with Section 1250) of Division 2, a pharmacy*
17 *licensed pursuant to Chapter 9 (commencing with Section 4000)*
18 *of Division 2 of the Business and Professions Code, and a drug*
19 *manufacturer that is legally authorized under federal law to*
20 *manufacture and sell pharmaceutical drugs, may donate excess*
21 *or surplus unused prescribed medications under a program*
22 *established by a county pursuant to this division.*

23 *150004. (a) A county may establish, by local ordinance, a*
24 *repository and distribution program for purposes of this division.*

25 *(b) A county that elects to establish a repository and*
26 *distribution program pursuant to this division shall establish*
27 *procedures for, at a minimum, all of the following:*

28 *(1) Establishing eligibility for medically indigent patients who*
29 *may participate in the program.*

1 (2) Ensuring that patients eligible for the program shall not be
2 charged for any medications provided under the program.

3 (3) Ensuring proper safety and management of any
4 medications collected by and maintained under the authority of a
5 licensed pharmacist by ensuring, at a minimum, all of the
6 following:

7 (A) That only those drugs that are received and maintained in
8 their unopened, tamper-evident packaging are dispensed.

9 (B) That any drugs received have not been adulterated,
10 misbranded, or stored under conditions contrary to standards set
11 by the United States Pharmacopoeia or the product
12 manufacturer.

13 (C) That any drugs received are dispensed prior to their
14 expiration date.

15 (D) That reasonable methods have been established to ensure
16 that drugs received have not been in the possession of any
17 individual member of the public.

18 (E) That a pharmacist may use his or her discretion and best
19 judgment in deciding whether or not to accept any donated drug.

20 (F) That records are kept for at least three years from the date
21 that any drug is received or dispensed, whichever is later,
22 pursuant to this division.

23 ~~1357.51. (a) No plan contract that covers three or more~~
24 ~~enrollees shall exclude coverage for any individual on the basis~~
25 ~~of a preexisting condition provision for a period greater than~~
26 ~~eight months following the individual's effective date of~~
27 ~~coverage. Preexisting condition provisions contained in plan~~
28 ~~contracts may relate only to conditions for which medical advice,~~
29 ~~diagnosis, care, or treatment, including use of prescription drugs,~~
30 ~~was recommended or received from a licensed health practitioner~~
31 ~~during the six months immediately preceding the effective date~~
32 ~~of coverage.~~

33 ~~(b) No plan contract that covers one or two individuals shall~~
34 ~~exclude coverage on the basis of a preexisting condition~~
35 ~~provision for a period greater than 12 months following the~~
36 ~~individual's effective date of coverage, nor shall the plan limit or~~
37 ~~exclude coverage for a specific enrollee by type of illness,~~
38 ~~treatment, medical condition, or accident, except for satisfaction~~
39 ~~of a preexisting condition clause pursuant to this article.~~
40 ~~Preexisting condition provisions contained in plan contracts may~~

1 ~~relate only to conditions for which medical advice, diagnosis,~~
2 ~~care, or treatment, including use of prescription drugs, was~~
3 ~~recommended or received from a licensed health practitioner~~
4 ~~during the 12 months immediately preceding the effective date of~~
5 ~~coverage.~~

6 ~~(c) A plan that does not utilize a preexisting condition~~
7 ~~provision may impose a waiting or affiliation period not to~~
8 ~~exceed 60 days, before the coverage issued subject to this article~~
9 ~~shall become effective. During the waiting or affiliation period,~~
10 ~~the plan is not required to provide health care services and no~~
11 ~~premium shall be charged to the subscriber or enrollee.~~

12 ~~(d) A plan that does not utilize a preexisting condition~~
13 ~~provision in plan contracts that cover one or two individuals may~~
14 ~~impose a contract provision excluding coverage for waived~~
15 ~~conditions. No plan may exclude coverage on the basis of a~~
16 ~~waived condition for a period greater than 12 months following~~
17 ~~the individual's effective date of coverage. A waived condition~~
18 ~~provision contained in plan contracts may relate only to~~
19 ~~conditions for which medical advice, diagnosis, care, or~~
20 ~~treatment, including use of prescription drugs, was recommended~~
21 ~~or received from a licensed health practitioner during the 12~~
22 ~~months immediately preceding the effective date of coverage.~~

23 ~~(e) In determining whether a preexisting condition provision,~~
24 ~~a waived condition provision, or a waiting or affiliation period~~
25 ~~applies to any enrollee, a plan shall credit the time the enrollee~~
26 ~~was covered under creditable coverage, provided that the enrollee~~
27 ~~becomes eligible for coverage under the succeeding plan contract~~
28 ~~within 62 days of termination of prior coverage, exclusive of any~~
29 ~~waiting or affiliation period, and applies for coverage under the~~
30 ~~succeeding plan within the applicable enrollment period. A plan~~
31 ~~shall also credit any time that an eligible employee must wait~~
32 ~~before enrolling in the plan, including any postenrollment or~~
33 ~~employer-imposed waiting or affiliation period.~~

34 ~~However, if a person's employment has ended, the availability~~
35 ~~of health coverage offered through employment or sponsored by~~
36 ~~an employer has terminated, or an employer's contribution~~
37 ~~toward health coverage has terminated, a plan shall credit the~~
38 ~~time the person was covered under creditable coverage if the~~
39 ~~person becomes eligible for health coverage offered through~~
40 ~~employment or sponsored by an employer within 180 days,~~

1 ~~exclusive of any waiting or affiliation period, and applies for~~
2 ~~coverage under the succeeding plan contract within the~~
3 ~~applicable enrollment period.~~

4 ~~(f) No plan shall exclude late enrollees from coverage for~~
5 ~~more than 12 months from the date of the late enrollee's~~
6 ~~application for coverage. No plan shall require any premium or~~
7 ~~other periodic charge to be paid by or on behalf of a late enrollee~~
8 ~~during the period of exclusion from coverage permitted by this~~
9 ~~subdivision.~~

10 ~~(g) A health care service plan issuing group coverage may not~~
11 ~~impose a preexisting condition exclusion upon the following:~~

12 ~~(1) A newborn individual, who, as of the last day of the~~
13 ~~30-day period beginning with the date of birth, has applied for~~
14 ~~coverage through the employer-sponsored plan.~~

15 ~~(2) A child who is adopted or placed for adoption before~~
16 ~~attaining 18 years of age and who, as of the last day of the 30-day~~
17 ~~period beginning with the date of adoption or placement for~~
18 ~~adoption, is covered under creditable coverage and applies for~~
19 ~~coverage through the employer-sponsored plan. This provision~~
20 ~~shall not apply if, for 63 continuous days, the child is not covered~~
21 ~~under any creditable coverage.~~

22 ~~(3) A condition relating to benefits for pregnancy or maternity~~
23 ~~care.~~

24 ~~(h) An individual's period of creditable coverage shall be~~
25 ~~certified pursuant to subsection (e) of Section 2701 of Title~~
26 ~~XXVII of the federal Public Health Services Act (42 U.S.C. Sec.~~
27 ~~300gg(e)).~~